

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

WILLIAM SCOTT BAUMHOFFER,

Civil Case No. 09-652-KI

Petitioner,

OPINION AND ORDER

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security Administration,

Respondent.

William Scott Baumhofer
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Portland, Oregon 97223

Pro Se Petitioner

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KING, Judge:

Plaintiff previously filed a case against the Commissioner of the Social Security Administration, CV09-652-KI, to review a final decision of the Commissioner denying plaintiff's Application for Help With Medicare Prescription Drug Plan Costs, namely, the Medicare Part D subsidy. The Commissioner filed an unopposed motion to reverse the case under sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. Remand was necessary because the Commissioner could not construct a complete record due to a lost tape of a telephone hearing. Plaintiff was to receive a new hearing in January 2010 and new decision. This court granted the motion and entered judgment on December 28, 2009.

An ALJ issued the new decision on January 27, 2010 which again found plaintiff not eligible for a Part D subsidy due to excess resources. Plaintiff apparently disagrees with the new decision and filed this motion to re-open the older civil case.

The judgment this court entered after the sentence four remand results in this court losing jurisdiction. Shalala v. Schaefer, 509 US 292, 297, 113 S. Ct. 2625 (1993). Thus, I cannot reopen the previous case. If plaintiff wishes to challenge the latest decision, he may file a new action.

IT IS SO ORDERED.

Dated this 9th day of April, 2010.

/s/ Garr M. King
Garr M. King
United States District Judge